WHAT OUGHT TO BE DONE WITH THE FREEDMEN AND WITH THE REBELS?

A

SERMON

PREACHED IN THE

BERKELEY-STREET CHURCH, BOSTON,

ON SUNDAY, APRIL 23, 1865,

BY

HENRY MARTYN DEXTER.

BOSTON:
PUBLISHED BY NICHOLS & NOYES.
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CORRESPONDENCE.

Rev. H. M. Dexter.

Dear Sir, — At a meeting of the Berkeley-street Congregation, held immediately after divine service, on Sunday afternoon, April 23, 1865, the undersigned were appointed a Committee to request you to place at their disposal the manuscript of your sermon preached in the forenoon of that day. Believing that its circulation would be of essential service at this time, allow us to express the earnest hope that you will comply with our request.

Most cordially and fraternally yours,

B. W. WILLIAMS,
JOHN H. COMER,
WILLIAM WILLETT,
W. H. HOLLISTER,
ISRAEL P. WARREN,
JONA. A. LANE,
STILLMAN B. ALLEN,
Committee.

Boston, April 24, 1865.

Messrs. B. W. Williams, John H. Comer, and others, Committee.

Gentlemen, — I am taken by surprise at the urgency of the opinion contained in your kind note of yesterday, and collaterally expressed, that the discourse to which you refer may be of public benefit, if printed. Yet I am so firmly convinced of the truth of its positions, and so earnest in the desire that they should prevail in the nation, that I yield to your request.

Faithfully, your friend and pastor,

HENRY M. DEXTER.

Hillside, Roxbury, 25th April, 1865.

[On account of the great length of the discourse, some passages which here appear were omitted in the delivery.]

SERMON.

Isa. xxxii. 17: "And the work of righteousness shall be peace; and the effect of righteousness, quietness and assurance for ever."

We are doubtless all familiar with the fact, that on newly made land, such as we have plenty of around us, it is needful that *every* pile of the thousands which are driven to stiffen the foundations of a great building should be hammered home until it brings up on the old solid earth underneath; or that stone which rests upon it will gradually subside from its horizontal level with its fellows, and rupture, disfigurement, and insecurity above, — sometimes even to the loftiest height of the structure, — will follow. This fact goes a little way toward illustrating the manner in which, in a republican form of government, responsibility rests underneath upon every single individual. Hence, in such a civil condition as ours, it is of immeasurable consequence that the masses of the people, in their views and acts for the nation, be grounded firmly upon the eternal rock of truth and justice. And this is my reason for speaking to you, this morning, as I am about to speak.

We are approaching the end of the Rebellion. We are so near to it, that those questions which its settlement makes practical are now in order, and indeed press themselves upon every mind. Every man is bound, by the highest considerations, to meditate upon them, and to mature a well-considered opinion in regard to them, — one which he can feel safe to act upon now, and to abide by hereafter.

Those questions, so far as they are intricate, new, and troublesome, are two: viz., what ought to be done with those

people who have been slaves, and who are now, or will shortly be, free; and what ought to be done with those rebels who are already subdued and in our hands by choice or conquest, or are soon to be so. All other questions are merely of expediency, as to a little more or a little less, a little longer or a little shorter: these are of principle; and their solution must so obviously affect our whole national future, as to make it of the utmost consequence that they be answered rightly; that the great body of loyal men, if possible, think alike in regard to them. It is no time now for divided counsels.

I propose to do what I can, this morning, to aid you to understand these questions, and to perceive what principles of moral and Christian duty relate to them, and must necessarily shape all just answer to them.

That fundamental general truth which is hinted by our text most clearly underlies all particular reply,—settle them *rightly*, and they will stay settled; never otherwise.

Before the workmen began to pile up that massive shaft on the other side of the Charles, which meets the sun in his coming, and whose summit takes the last kiss of the departing day, they dug down twelve feet, and they dug outward till they touched fifty feet on every side, and laid their granite there broad and deep, below the utmost reach of the surge of the frost, on the solidest substance of the solid hill, because they knew that otherwise there could be no permanence to their towering masonry. And if we do not dig down now, until we lay bare the substratum of absolute right, we cannot build for the future so that the freezing and thawing of the elemental agencies shall not heave down what we build.

That which is purely just, and thoroughly and everlastingly right, will be sure to stand in a republic; because God is satisfied with it, and man will be satisfied with it; for it provides equitably for all, and so places every man that it is for his interest to have things remain as they are, whence a majority can never be brought to desire radical change, and so there can never be such change. If we can now do what is right in the sight of God and man in regard to the freedmen and the rebels, we shall have no trouble now; we shall never have any, because it will be for nobody's interest to make

any, and none will be made. But if we do what is wrong, for the sake of some imagined present benefit, — as our fathers did in the compromises of the Constitution with regard to slavery, because they feared that otherwise they should lose the Union, and thought that the certainty of union with slavery would be better than the risk of no Union, — we may rest assured that God's silent forces will lift and throw our settlement, until it tumbles down, some dark day, into such anarchy as these last four years have seen, with blood and tears. "The work of *righteousness* shall be peace; and the effect of *righteousness*, quietness and assurance *forever*."

I. What, then, is it right for our nation to do with the freedmen?

In 1860 there were nearly four millions of slaves, and for the ten years then last past they had been increasing at the rate of nearly twenty-four per cent.* It is then fair to infer that they have increased twelve per cent in the nearly five years which have elapsed since that census was taken, giving us now a total of nearly four millions and a half. These are, very largely, already free: when the Rebellion heaves its last gasp, and lies still in death, they will all be their own masters, and we may safely count on having four and a half millions of freedmen. Add to these the nearly five hundred thousand colored men and women who were free before, and we shall have a total colored free population of about five millions; probably not far from one-eighth of the entire population of the Republic.

I take it for granted that the stubbornest mind will yield me assent to these two positions concerning them; viz., they never can be enslaved again, and they never can become non-resident. They do not wish to go anywhere else; we have no right to drive them away;† we could not spare them, nor could they be sent. They will stay here, as a body, somewhere in our national domain; in some condition that is sub-

* *National Almanac* for 1863, pp. 308, 310.

† See, on this point, the clear reasoning of *The African's Right to Citizenship*. Philadelphia, 1865. 8vo. pp. 31.

stantially that of free people. The question is, Where, and in what condition?

Where? If they are free to go where they choose, one thing is clear: they will not come North, save in rarely exceptional cases. That remarkable report made last year by the commission appointed to inquire into the condition of the free colored people, the ex-slaves, in Canada,* settles it, on soundest principles, that a rigid climate is intolerant of them; that they can only live and thrive where they would prefer to live and thrive, in those portions of the Union which, in temperature, most nearly resemble their native land. If left to themselves to choose, there can be no doubt that the great majority of them will prefer to live at the South as freemen, where they have so long lived as slaves; where the climate suits them;† where they are accustomed to the soil; and where constitutions like theirs are well-nigh indispensable for any successful agriculture. Those tropical cotton-fields, and sugar-plantations, and rice-swamps, where they have for generations delved sadly under the lash, must lie waste, or freedmen must take up the shovel and the hoe with the new elasticity and enthusiasm of a personal interest in their labor, and beautify them with the joy of harvest. White men cannot do that work as well as they can, if, indeed, they could do it at all. The work needs to be done. The spindles and looms of the world famish for the cotton, and the markets are hungry for the rice and the sugar. There, where they can do what needs to be done, and what they need to do, and long to do, and what the world needs to have them do, is surely the place for them. Let them live at home.

The Rebellion has wasted the former white residents. The entire State of South Carolina — viper's nest of secession and treason and assassination — had, by the last census, but 1,284

* The Refugees from Slavery in Canada West. *Report to the Freedmen's Inquiry Commission, by S. G. Howe.* Boston: 1864. 8vo. pp. 110.

† "If slavery is utterly abolished in the United States, no more colored people will emigrate to Canada, and most of those now there will soon leave it. There can be no doubt about this. Among hundreds who spoke about it, *only one* dissented from the strong expression of desire to go 'home.' In their belief, too, they agreed with Rev. Mr. Kinnard, one of their clergy, who said to us, 'If freedom is established in the United States, there will be *one great black streak* reaching from here to the uttermost parts of the South.' "—*Report* (as above), p. 28.

more white inhabitants than the simple *increase* of the population of New-York City had been during the ten years then last past; * and, though the proportion of skulks and office-bearers (always careful to keep out of longest range of shot and shell) has doubtless been very large there, there can be no doubt, that, if left to the whites, its broad acres would scarcely now average a man to a square mile. Let, then, the freedman dwell there and in kindred spots.

But in what condition? HERE Providence gives us our alternative, where our volition may come in to affect the result. We seem to be shut up to the fact, that the negro people are to be here somewhere, and to share our future, — the past settles that; and that they had better do so in the South, — the whole fitness and necessity of things settle that. But when we come to the question, under what auspices, and in what condition, they shall stay there, we approach the field lying open to our sense of what is right and expedient, and ask questions which we are bound to answer with utmost care and honor.

The principle which will be our clew out of all perplexity, it seems to me, is simply this: *the freedmen should be recognized as men, should be treated as men, and should be aided to take care of themselves as men.* This once established, all becomes clear. We have now among us about the same number of foreign-born citizens (I do not include, of course, the children of foreign-born parents) as we shall have of freedmen, — say five millions; and a large proportion of these are quite as degraded in character, and as low in all brain-culture, as the blacks: but it has never so much as entered our heads to treat them as if they were not men; on the contrary, we have recognized them as men, and sought to aid them to take care of themselves as such. There are in our land, already, near 40,000 Chinese; near 30,000 Mexicans; near 5,000 Portuguese; as many Spaniards; 500 Islanders from the Pacific, and 150 Turks; who, as classes, would present quite as serious a question as to their suitableness for our citizenship as is presented by the negro class. I am not sure but the low,

* The *increase* of New-York City had been 290,104; the total white population of South Carolina was 291,388.

imbruted, Papal part of the two millions now among us, who were born in Ireland, presents a much more serious one; and yet we scarcely have thrown even any delay in the way of their blundering straight up to the ballot-box with a vote.

We are confused on the negro question by the folly of our past. After having allowed the black man for so many years to be sold as a *thing*, our own consistency seems, in a manner, pledged to deny his manhood. But what say the simple, honest facts?

Every one of those physical tests by which the comparative physiologist draws the line between manhood, and that animal life which is less than manhood, leaves the negro on the side of humanity. The ablest and most elaborate of our recent writers on physiology expressly argues that the abnormal peculiarities of negro manhood are due to assignable natural causes.* Dr. Pickering † has classified eleven distinct races in the human family, two of which are white, three brown, four blackish-brown, and two black. One of the white races, one of the brown, and three of the blackish-brown,— five *others* of the eleven,— have hair which is as truly crisped and woolly as that of that black race which we call the negro. So that, if we turn the negro out of the human family for his hair, we throw out five other races as well; while, if we throw him out for his color, we throw out another race with him, besides introducing, at least in this country, endless questions of modified color, which we should be bound to accept as indicative of modified manhood. And if we turn to that, in some respects, most convincing branch of this argument of race-affinity which *language* furnishes, we shall find, in the words of a recent author in this department,‡ that there is "nothing to prove the

* "I believe, therefore, that the coloration of the skin, whatever the particular tint may be, — tawny-yellow, olive-red, or black,— is connected with the manner in which the liver is discharging its functions. . . . Having thus traced the coloration of the skin to existing peculiarities of hepatic action, I may repeat the remark already made, that it is not improbable, that, in the most degraded negro type, the prognathous form of the skull may be attributed to the same cause. Not that this alone is always the cause; for a prognathous skull can by degrees arise, as we have seen, in any race, even the white, from a variety of causes, such as misery, want, or an oppressed social state." — Draper's *Human Physiology*, p. 589.

† *The Races of Man*. p. 2.

‡ *Races of the Old World*, by Charles L. Brace, p. 310.

negro radically different from the other families of man, or even mentally inferior to them."

One of our intelligent New-Englanders,* who has labored as a missionary for fifteen years in one of the most degraded portions of Africa, has recently made public the result of his investigations, experiences, and judgments on this subject, indorsing in the fullest manner the previously published opinion of one of our most accomplished scholars, to this effect: "The African nature possesses a latent capacity fully equal, originally, to that of the Asiatic or the European. Shem and Japhet sprung from the same loins with Ham. God made of one blood those three great races by which he repopulated the globe after the deluge." †

Nor need this be left to be matter of inference merely. Many names on the world's list of illustrious men are the names of Africans and negroes. Terence, who contests with Cicero and Cæsar the palm of a pure Latinity, and whose deep pathos, subtle wit, and rhythmic skill, will make his writings memorable to the end of time, was an African and a slave. Tertullian, who, clothing the most brilliant conceits of a fertile imagination, the most caustic satire, and the most impetuous logic, in language often so uncouth as to be well-nigh barbarous, has yet been almost equally eminent with those who have acknowledged him as a master and those who have branded him as a heretic, was a Carthaginian. And Augustine, acute, comprehensive, full of life and vigor, whose heart of fire impressed ineffaceably upon the Christian world his theology of predestination and free-will, was a Numidian. So Toussaint L'Ouverture, the noble patriot of Hayti, was a thorough negro; yet Wordsworth immortalized his greatness in one of his sweetest sonnets, and Whittier apostrophized him thus: —

> "Everywhere thy name shall be
> Redeemed from color's infamy;
> And men shall learn to speak of thee
> As one of earth's great spirits, born
> In servitude, and nursed in scorn;

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* Rev. Lewis Grout. *Zulu-land*, &c., p. 185.

† Prof. W. G. T. Shedd, in *Bibliotheca Sacra*, xiv. 637.

Casting aside the weary weight
And fetters of its low estate,
In that strong majesty of soul
Which knows no color, tongue, or clime;
Which still has spurned the base control
Of tyrants through all time."

And who, that knows any thing about the literature of the present day, does not know that Alexandre Dumas, the most fertile, if not the most popular, French writer of the generation,—his daily work averaging *thirty-two* printed octavo pages, and his income from the pen reaching $12,000 a year,*—is of the proscribed blood, with its strongly-marked physical characteristics? Did you ever hear Frederic Douglass make an argument? and, if you have, did you not feel that you would be making a remunerative bargain if you could exchange your head for his? To be sure, he stands far above the average of his race, or any other, in intellectual ability; but he is a true, thorough negro still: so that, if he is a man, they are men; if they are not men, he is not a man.

The negro not a man! After the advantages won for the nation in this struggle by the sagacity of negro pilots, and the intrepid fidelity of negro guides, and the heroic bravery of negro troops, it is an insult even more to our manliness than to theirs to deny that they are men; humble in culture, in most cases, to be sure, (what should we be if our grandfathers had been Bushmen in Ethiopia, and we had been through their slave-experience?) and, it may be, with a low average of some manly qualities; but still MEN; fit to be trusted and trained to take care of themselves,—fit to be welcomed to dwell by our side, and help bear our burdens and enjoy our triumphs.

This being settled once for all and forever, (and does anybody think God will give us abiding peace, or ought to, until it is settled?) other conclusions will follow readily.

1. *They must be provided with a place where they can live as men.* All men must be somewhere; and if we expect the freedmen to be industrious, and to support themselves and aid us by honest labor, they must have a home. If they are to till

* New American Cyclopædia, vi. 666.

the soil, they must have the soil to till. If they are to inhabit South Carolina and other portions of the South whose climate and soil are congenial to them, they must have South Carolina and other Southern soil in possession. How shall they get it? Who owns it now?

There can be but one answer. By the law of the land, as things were before the Rebellion, 350,000 slaveholders owned these four and a half millions of negroes, — now freedmen, — and the land which they tilled. When those planters turned traitors to the United States, as ninety-nine in every hundred of them did, they distinctly renounced its protection of their social rights, including that to their deeded lands, and dared its heaviest penalties, in the expectation that they should readily resist its power, and establish a new government of their own, which would take up the defence of those social rights, and more than make them good against all claimants within and all force without. They deceived themselves. They staked all, and have lost all. The majesty of the Government which they despised has swept over them, and they lie prostrate and helpless before it. Thousands of them have fallen in the shock of battle. Those who remain are, or soon will be, fugitives in strange lands, or captives in our hands. *They* no longer own those broad plantations. The title has passed, through their treason and subsequent death, self-banishment, or conquest, into the hands of the nation which they sought to destroy, but which has fallen on them, and ground them to powder. Let the nation now divide this conquered, confiscated territory among the freedmen, by gift, or by sale on suitable terms, with due latitude of time of payment. Let it break up that old feudal, unrepublican monopoly of land in the hands of a few men of enormous wealth, and cut up the plantations into little farms, placing each able-bodied freedman in possession of a spot which, under suitable restricions, he can make his own home, and leave to his children after him. The nation has the legal right to do this, as who can question?* It

* I am, of course, aware that the Constitution (art. iii. sect. 3) expressly provides that "no attainder of treason shall work corruption of blood or forfeiture, except during the life of the person attainted;" so that, considering this Rebellion purely as an act of treason, the nation would not gain the power of decreeing perpetual forfeiture of rebel lands. But considered as a civil war, in which the rebels staked all their goods

would be an act of beautiful justice, in the sight of God and man, to do it; that the acres which these negroes have been forced, in the old days of unpaid sweat, and stripes, and tears, and blood, to earn, they should now receive. It would be an act of wise forecast for the future; sowing the seeds of loyalty thick along the old furrows of treason. *Thus* let them find their homes.

2. *They must, for a time, be paternally cared for and aided in their new life.* It is wonderful how well they behave, how industrious they are, and with what rapid strides they march up toward some simple learning and some rude independence. But as it would not be a very prudent thing to turn loose four and a half millions of children to their own care, without any oversight, so these adult children will be the better for some proper fatherly supervision, until they shall become accustomed to the new way. This ought not to be of such a character as to interfere in any manner with the freedman's essential freedom: no system of apprenticeship, or similar legacy and reminder of the old slavery, is wise or wanted. So it would be a very poor plan to hire them out (as has been often suggested, and sometimes attempted) to their former masters, if you could find their masters. In the first place, there is too much in such a system to remind one of the old slave-gang, and overseer with his lash; and in the second place, the genius of our institutions, as I have intimated, frowns upon those large tracts of land in one ownership. It is the old feudal way, unwholesome for a republic. A farm for every laborer, and every laborer for his own farm, is her millennial motto.

This one fundamental will cover all the ground. Let the Government lay down the scriptural rule, "If any will not work, neither shall he eat;" leaving alone the industrious negro to take care of himself, and move onward and upward by the momentum of the same social forces which carry along the white man; only constraining the exceptional lazy to some honest employ, and furnishing due asylum for those victims of misfortune who are incapable of work, and have no friend

and properties, and lost them, the case is different; as the confiscation acts of Congress sufficiently declare.

to maintain them.* If we can trust the grass to grow, and the trees to blossom and bear fruit, under the bright urgency of the spring and summer sunshine, we can trust the great mass of emancipated negroes to become thrifty farmers and mechanics, and valuable members of the great industrial body, by the natural promptings of opportunity and self-interest, in the propitious air of freedom.

3. *We ought to aid in their education to become intelligent citizens.* Unintelligent citizens are a curse to a republic, and a dead weight upon it. These poor fellows, after so many generations of cruelty following ages of African barbarism, must have help in their first endeavors after knowledge. That help they have already proved that they will use well. Never was there such a desire to read and write; never such progress in the rudiments before, as is reported, without exception, from all our schools of contrabands. So that we have, at once, the allurement of the prospect of almost incredible success, the promptings of philanthropy, the urgency of duty, the impulse of gratitude for what they have done for us, and the gravest considerations of common safety, to impel us to act promptly, wisely, and sufficiently, in aiding the suddenly freed negro to know how well to use his sudden freedom.

4. *The freedman ought to be allowed and encouraged, so soon as his education shall be sufficient, to become a full, voting citizen, without any statutory disability, with the rest of us.* That is, all embargoes upon citizenship, founded upon color merely, should be removed by national law. This ought to be done, because it is both right and expedient. It is right, because color has nothing to do with natural prerogatives; as would be palpable at once, if any government were to disfranchise all citizens having light hair and blue eyes, for that and for no other reason. And it is expedient, because the freedmen will be made more useful members of society by being put into the possession of all their natural rights, and by being stimulated to the best possible standard of attainment and behavior

* See a very suggestive and valuable letter from Edward S. Tobey, Esq., of this city, to the editor of the "Baltimore Clipper," published in the "Clipper" of 23d Feb., subsequently printed in the "Boston Daily Advertiser," and (largely) in the "Congregationalist" of 7th April last, in which the question of the freedmen is very ably discussed, and the view hinted at above is elaborated.

by the possibility of advancement in proportion to demonstrated ability; because so long as we refuse them the full privileges of citizenship, they being cultured up to them, we make our system inconsistent with itself, and therefore weak; because the experience of New England, which has long allowed colored citizens, under circumstances in many respects unfavorable to them, to vote, has proved the safety and wisdom of such a course; and because the nation will need the votes of these men — sure to be for freedom, and for all that is good for freedom — to counterbalance other votes, which must be taken account of in the future; and it cannot afford, with the tremendous possibilities which coming years present of the influx of foreign influence at our polls, to throw away the reenforcement there of these affectionate, loyal, liberty-loving, native Americans.

5. *Once more, it is our duty to conquer and abandon our foolish and wicked prejudice against the negro on account of his color.* He is a child of God as we are; and God, who made us white, made him black. He cannot help his color; is no more to blame for it than we are for being ugly in features, instead of comely, if we are so; for being short instead of tall, or the reverse. We have a right to our preferences, of course. It is nobody's business if I think somebody beautiful in whom you see no beauty; if I am fond of the society of some person who has no attraction at all for another. But to set up the single accident of color, as being the one decisive consideration in all questions of social respect; to despise a negro because he is black; to gather up the skirts of your garments from possible contact with him, in the horse-car or in the street, however neat, well-dressed, and gentlemanly he may be; to make him continually feel that you look down upon him, and withdraw from him, and abominate him, for something which he cannot mend, and for which he is not in fault, — this is not high-minded: it is not the way of the true gentleman, of the true lady; it is not the spirit of the Christian; it is not the style of the intelligent and honest republican. It is the narrow, mean, low-bred impertinence of the person who is afraid to concede that character does not consist in color, lest he should lose his own character in so doing.

It is, thank God, an impertinence which is almost wholly confined to this country, and is one of the legacies of that accursed system of slavery whose virus has contaminated all our affairs. An English drawing-room or a French chateau is unconscious of it.*

If we desire to treat our new freedmen and freedwomen rightly before God, we shall rid ourselves of this. We need not marry them, nor give them in marriage; we need not walk arm in arm with them in the streets; we need not prefer them in any respect to our own color, — those are questions regarding *social*, not *political* equality: † but we may, and we must, learn to conquer this reasonless repugnance; to respect and honor and love them, in their appropriate place, just as we do our Irish and German fellow-citizens in *their* place; and we must recognize their place as being that of full, honorable, republican manhood and womanhood.

This, then, is my answer to the question, what we are now bound, in Christian honor and right, to do in the case of the freedmen: viz., we ought to divide among them the confiscated lands of their late rebel masters; we ought to give them fatherly watchfulness and help in their first occupancy of their little farms; we ought to provide for their education in the rudiments underlying good citizenship; we ought to make them citizens in full, so soon as they are fit for it; and we ought to overcome and abandon that senseless and wicked prejudice, which forever passes them by on the other side,

* "Rev. S. R. Ward attracted attention in the company as a full-blooded African, — tall enough for a palm-tree. I observed him in conversation with lords, dukes, and ambassadors, sustaining himself modestly, but with self-possession. All who converse with him are satisfied that there is no native difference between the African and other men. — Mrs. Stowe's *Sunny Memories of Foreign Lands*, ii. 105.

† "Political and social equality are two essentially different states. Political equality exists in this country between individuals of the white race. But neither in this country nor in any other does social equality exist. Nor can it ever exist, unless there occur a change in the nature of man which now and always has led him to aggregation with those only with whom he holds the same general views, feelings, likings, and desires. Because I advocate the political equality of my white butcher, or baker, or candlestick-maker, does it follow that I should be willing to marry his daughter, or find it agreeable that he should marry mine? Then why should it be represented, as the consequence of maintaining the justice of granting political equality to the blacks, that all who agree with those views should be in favor of amalgamation?" — *The African's Right to Citizenship*, p. 24.

and *taboos* them everywhere, simply because they differ in color from ourselves.

This brings us to our second general question: —

II. What ought our nation to do with the rebels?

I am not about to discuss the subject of reconstruction as it affects the old States that went into rebellion, and endeavor to indicate a policy on which they should be brought back: that seems to me rather a question of statesmanship, and the Constitution, and of expediency, than of moral right; and so one which I have no call, as I have no inclination, to consider here. The question of moral right, which I would enter upon, underlies that, and concerns the treatment of the individuals who rebelled, and is prior to all questions about their future relations to the nation. Should they be pardoned? Should they be punished? And, if so, in what manner, and to what degree?

Exactly what are the facts which should shape our answer? What have they done, and what is their present status? On the 20th of December, 1860, it having been settled on the 6th day of the previous month that Abraham Lincoln was to be the next President, by a vote of 180 electors against 123 for all others, a convention of the people of South Carolina, of 169 members, passed unanimously an ordinance repealing the act of the 23d of May, 1788, by which the Constitution of the United States had been ratified by the people of that State. Mississippi followed suit, Jan. 9, 1861, by 84 yeas to 15 nays. A convention of the people of Florida took similar action one day later, by a vote of 62 yeas to 7 nays. Alabama reached a vote on her secession ordinance the next day, by 61 yeas to 39 nays. Georgia did likewise, on the 19th of the same month, by 208 yeas to 89 nays. On Jan. 26, Louisiana took similar action, by 103 yeas to 17 nays; and Texas went next, on Feb. 1, by 166 to 7. These seven States met by delegation in convention at Montgomery, Ala., on the 4th February following, and confederated as a new government, electing Jefferson Davis for President, and Alexander H. Stephens for Vice-President. Then Sumter fell, civil war

followed, and Virginia, North Carolina, and other reluctant slave States, were dragged into the vortex of revolution, and their sons swelled the Confederate armies. In every slave State that seceded, except possibly South Carolina and Mississippi, there were individuals of influence and character who were opposed to secession, — in some cases there were many such, — most of whom afterwards succumbed to the ferocious pressure brought to bear upon them; though here and there one has resisted, and been faithful to the Union, to the end.

From these facts, it will be obvious that the inhabitants of the States which have been in rebellion may be divided into these five classes; viz.: —

(*a*) Decided, influential, and more or less violent traitors from the beginning.

(*b*) Those who were originally doubtful, or even opposed to secession, who yielded to the pressure, and went, at last, warmly into the war against us.

(*c*) Those originally doubtful or opposed to secession, who remained so, or grew bitter against it; but who were compelled, to save their lives, to join the ranks of the traitors, and were driven at the point of the sword and the bayonet to fight against us, their hearts and judgment all the while protesting.

(*d*) The many — mostly of the uneducated poor whites — who were deceived by false statements into a willing support of the Rebellion, and have never had the opportunity (as some of them have scarcely the ability) to form an intelligent opinion upon the matters in controversy.

(*e*) The few who have been for the Union through all, who have evaded the conscription, and by flight or concealment, or by some artifice, have managed to avoid bearing arms against us, or giving aid and comfort to our enemies.

If the present survivors of these five classes could be distinctly separated, so as to be dealt with each by itself, there would be little difficulty in deciding what ought to be each man's fate. But this, of course, is impossible. The nearest practicable method of approach to absolute justice would seem to be the treatment of what remains of the Southern populations, under these three heads: —

(*a*) Prominent, influential, intelligent traitors from the beginning, — choosing treason, and driving the reluctant into it; with all who have shared in the Rebellion, and have not repented of their guilt.

(*b*) All, however they may have entered upon the Rebellion, except its leaders, who are now truly repentant.

(*c*) All who have kept themselves pure and loyal through all, except as outward force may have for a time constrained them.

The latter class should be honored with exceeding honor, and, so far as they are fit for it, should be relied upon, almost without exception, for all important official service to the Government in the near future. Their privations should be borne in mind, and their losses of property compensated from the confiscated estates of the leaders of the Rebellion.

The second class should be forgiven, and, under proper restrictions, — in the case, at least, of all who have borne commissions against us, reaching to a disqualification from voting, or bearing any office of trust and honor, for years to come, — should be permitted to resume their old places as co-workers in the peaceful pursuits of their regenerated social system; care being taken to scrutinize the genuineness of their repentance, and especially to insure their fair treatment of all freedmen who may happen to settle by their side.*

The first class, who were the rich slaveholders; the great cotton-ocracy; the politicians; the governors and senators; the disciples of Calhoun, who boasted when South Carolina seceded, as did Barnwell Rhett, that "this was not a thing produced by Mr. Lincoln's election, or by the non-execution of

* "The freed people are truly and unreservedly our friends, and they are almost the *only* ones. They are more intelligent as a class, and more available as a trustworthy material for citizenship, than I expected to find them. The poor whites whom I saw are decidedly inferior to the average of the slave population. If there is to be for the future a stable basis for loyal States in the South, it must be made up largely of the freed people. It will not do at present to trust the ballot in the hands of the white men who have been rebels, and still are such, under the name and guise of Union men. . . . Of the true spirit and character of many of the pretended Unionists who have taken the oath, the negroes seem to be apparently much better informed than some of our military officers. They lurk about the city, seeking to injure the cause they still hate. Incendiary fires are frequent. — Special Charleston Correspondence "New-York Tribune," April 22, 1865.

the Fugitive-slave Law,— it is a thing which has been gathering head for thirty years;" * and more especially those survivors of the *eighty-two* Confederate generals who were educated at West Point,† and perjured themselves by turning our own swords and our own science against us; and those "magnanimous" Floyds and Lees, who went from the highest places of our counsels to theirs, not forgetting to carry our secrets with them, as they had beforehand sent our guns and treasure; those arch-traitors, who studied treason for years in advance, and reduced it to a science, and gloried in it, — what ought to be done with *them?* Here we touch the quick of our subject. Let us keep cool, and reason about it as if it were a problem of mathematics.

Andy Johnson says that "robbery is a great crime, and arson is a great crime, and murder is a great crime; but treason is the greatest crime." It is very common to say that treason is a very great crime, worse than murder; but I do not think it self-evident that it is so, on simple inspection. Thank God, we have had small occasion before to form any practical opinion about treason in this country; and, however great or however small a crime it may be, it has never come home to claim a judgment from us, as murder and arson have done. Let us, then, carefully inquire what treason is, that we may form for ourselves some intelligent estimate of the guilt of it, and determine what disposition the public safety (and so the law of right, which protects the public safety) requires should be made of men who are traitors in the first degree.

The word came into our language through the old French *traison* [*trahison*], from the Latin *traditio*, and literally signifies "the act of betrayal," of "treacherous giving-up;" and technically, as it is used in our law, it has the sense of "the act of attempting to overthrow the government to which the offender owes allegiance." It includes, you will see at once, the two ideas of armed hostility to the Government, and of treacherous hostility, — from within where it is not to be expected, and not from without. It differs from other armed hostility to the Government, as the work of the sneaking

* Greeley's American Conflict, page 345.

† National Almanac, 1863, p. 690.

assassin, who comes behind and puts his pistol to the back of the head of his unsuspecting victim, differs from fair combat in which both parties are forewarned, and have some real, if not equal, chance. Hence there was exact and discriminating truth in that remark of our new President the other day, when he spoke of treason as *the assassination of Government.*

It follows, of necessity, that treason must be just as much worse than murder, as the murder of a government is worse than the homicide of a single man. So it follows that it is worse than any other crime can be, for this reason: All other crimes take place in the body politic, over which government has power, and so they are amenable to government, and it can punish them; but treason rises a step higher, and kills the avenger, and, in so doing, licenses all crime to run riot; for there is no longer any power to restrain it: that power itself is struck down, and there is none to avenge it, or enable it any longer to avenge others. So that the crime of treason, as it were, includes all other crimes, and makes them possible, by taking all restraint out of the way, and making it impossible to punish them.

Or take another view of it. Consider what are the blessings of organized society as compared with anarchy. Consider how much it conduces to human comfort and prosperity for men to dwell together in communities, enjoying each other, aiding each other, and being aided by each other. Consider that such dwelling together is only made possible by Government, which assumes the protection of each man in his own house, and the security of each man in the enjoyment of his own property. Consider that all which hinders the covetous from the violent seizing of your goods, the man who has a spite against you from burning your house about your ears at midnight, the lustful scoundrel from the abuse of your most precious ones, that all which stands between you and yours and murder, robbery, rape, arson, and the whole catalogue of awful deeds which God-forsaken man, in his most diabolical wickedness, can do to his fellow-man, is the Government; the law, which is the voice of Government, saying, "Thou shalt not do these things;" so that, if the Government is overthrown, and that voice ceases, *you* are overthrown, and all these calami-

ties are made possible to you; so that, if the Government is murdered, you are liable to be murdered, and there will be none to help you; and your only real safety will be to take your little ones and your goods, and flee to some far, solitary place, where you can reasonably hope to garrison yourself against all miscreant invaders, and there sleep with revolvers and loaded rifles within reach of your outstretched arm, and walk abroad, and work, never knowing but behind the next tree lurks your assassin. Consider that, between that well-nigh savage state and your present comfort and security, nothing stands but Government, and then remember that the traitor lifts his arm to stab that Government, and let in all these woes upon you; and say if it is not clear to you that treason is as much worse than any other one crime, as all crimes condensed into one are worse than any one.

Look at it from still another point of view. Government is an ordinance of God. "The powers that be are ordained of God." The civil ruler, Paul says, "is the minister of God to thee for good." "He beareth not the sword in vain; for he is the minister of God, a revenger to execute wrath upon him that doeth evil. Wherefore we must needs be subject not only for wrath, but also for conscience' sake. For this cause pay ye tribute also; for they are God's ministers, attending continually upon this very thing."

The reason of this divine indorsement and authorization of human government, nay, of this almost adoption of it as a subordinate branch of the divine government, suggests itself in the indispensable relation of it: in the first place, to God's taste and will, who is a God of order, and not of confusion; in the second place, to human prosperity and happiness, which God desires, and would promote; and in the third place, to the coming of the kingdom of God, which is the great end for which the world stands. Good morals, education, social culture, piety, churches, missions, general godliness, and peace and joy,—all things good, which God loves and longs for here, and which Christ died to procure for man,—are jewels which require setting in the groundwork of a stable, just, civil government, and cannot be without it. Hence it was that the apostle thundered in the ears of the restless if not lawless

East, "Let every soul be subject unto the higher powers; for there is no power but of God:" and Peter counselled the strangers of Asia Minor, "Submit yourselves to every ordinance of man, for the Lord's sake, whether it be to the king, as supreme; or unto governors, as unto them that are sent by him for the punishment of evil-doers."

All legitimate and reasonably just human government being thus adopted of God, and infused by him with a sacredness which makes an offence against it a crime against him, it follows that that highest offence against it, which violently seeks its overthrow, must be the highest crime against him of which man is capable, in that range of crimes which pertains to this world.

In any and every aspect, then, treason asserts terrible preeminence, — the darkest, deepest, deadliest, most damnable deed possible to human wickedness.

How ought such a crime to be punished? If the murderer, in the first degree, of a man, deserves, as God and most men judge, the punishment of death, does the murderer of a nation deserve any less? Can there be any safety to a community with any less? Can there be any dignity to justice with any less?

Our American law of treason is very merciful. Lord Bacon enumerated thirty-three varieties of treason in England in his time;* and the old English punishment of treason, down to the thirtieth year of George the Third,† was horrible: the convict forfeited all his property to the crown; was drawn on a hurdle to the gallows; there hanged; then was cut down, disembowelled, and his entrails burned before life was extinct; and the body was then beheaded and quartered, and the head and quarters stuck upon Temple Bar or Westminster Hall, or some other conspicuous place, until the chances of time, and weather, and the birds, disposed of them! But our fathers, in the Constitution, carefully defined our law of treason, limiting it to the one simple act of levying war against the nation, proved by two witnesses, or by confession in open court; while Congress, in the exercise of the power given it by the

* Works, xv. 320–322.

† Blackstone's Commentaries, 92; Diary of John Evelyn, ii. 340.

Constitution, enacted that the punishment of treason shall be simply death by the ordinary means of execution.

To apply, now, these principles and facts to the case of the rebels, there is not room for the semblance of a doubt that every man of them who has been in arms against us, or who has adhered to those who have been in arms, and given them aid and comfort,* legally is guilty of treason, and, before the tribunal of public justice, deserves death. Daniel Webster said, on the 28th of May, 1851, in his speech to the young men of Albany, "The act of taking away Shadrach [I take it there is no forgetfulness *here* who "Shadrach" was] from the public authorities in Boston, and sending him off, was an act of clear treason. I speak this," he says, "in the hearing of men who are lawyers; I speak it out to the country; I say it everywhere, on my professional reputation. It was treason, and nothing less; that is to say, if men get together, and combine, and resolve that they will oppose a law of the Government, not in any one case, but in all cases; if they resolve to resist the law, whoever may be attempted to be made the subject of it, and carry that purpose into effect, by resisting the application of the law, in any one case, either by force of arms or force of numbers, that, sir, is treason." †

If that was sound reasoning as applied to the North in that case, it is sound reasoning now in the case of almost the entire South. Nobody will, I presume, deny in this case the "overt act," ‡ — that war has actually been levied against the nation. Whence it follows that every soldier, from Gen. Lee down to his humblest camp-follower; every non-combatant who has stood behind the soldiers and ordered and aided them on, from Jefferson Davis and his Cabinet and his pretended Congress down to the humblest mule-driver who has done his little utmost to help the military power of the Rebellion to crush the nation, is guilty of treason, and legally deserves the halter.

* "If war be actually levied, that is, if a body of men be actually assembled in arms for the purpose of effecting by force a treasonable design, all those who perform any part in the conspiracy, however minute, or however remote themselves from the scene of action, if actually leagued in the general enterprise, are considered as traitors." — *Duer's Constitutional Jurisprudence*, p. 335.

† Works, ii. 577.

‡ Aaron Burr escaped condemnation for treason because no overt act could be proved — *Parton's Life of Aaron Burr*, ii. 119–158.

But all of them are not *morally* guilty, and it is surely safe for us to show mercy to all who have not been intelligent and willing participants in the general overt acts of crime. Those who were deceived into this treason, or who were driven into it, we may safely forgive and re-instate on proof of present loyalty. So too, as I have already said, it will doubtless be safe for us to restore to peaceful residence — though not immediately to full citizenship — the masses of the uneducated and unintelligent rank and file, who, by this time, have bitterly repented of their guilt. The great practical difficulty in the way of all these attempts at reconstruction lies in the fact, that slavery has so barbarized the South, that all the sweet and saving force of truth seems to have perished out of Southern speech, and the solemnity of an oath to have ceased to be a power over the rebel mind.* Events, continually occurring, demonstrate — if I may venture to amend Hamlet to suit the case —

> "That one may swear and swear, and be a villain;
> At least, I am sure it may be so in Dixie."

Our only safety must be in keeping the power in the hands of those of never-questioned loyalty (with the freedmen), for a time of probation long enough both to win these barbarians gradually to a better mind, and to test the honesty of their professions.

We face then, again, the last great question of all: What shall be done with the arch-traitors, who, after plotting thirty years, sprang their mine under our feet, and came so near to ingulfing in its hideous chasm the temple of our liberty?

Legally and morally, they deserve the punishment of death.

* "We talk of human nature as if it belonged to all men. We must look at another character in men; that is, *slaveholding nature.* It is as malicious as a rattlesnake, as vindictive as a tiger, and as treacherous as the father of lies; it is cruel, it is insolent, it is infernal. I knew what it was long ago. I have summered with it, and wintered with it; I have watched it in all its forms; and I tell you there is no living with it on this continent. It is a blessed thing that the loyal people are beginning to see what it is. They will see more of it. My opinion, founded on my knowledge of the heart, is, that, while the first chapter of the war is about to close, another is about to open. Then every one will get a perfect knowledge of this slaveholding nature." Cairo (Ill.) Correspondent of "New York Tribune," 18th April (in a letter describing the exultations of the people at the news of the President's assassination).

So any competent jurist on earth, so any impartial jury on earth, would pronounce.

Is there any sufficient reason why they should not be so punished?

(1.) *It is pleaded in their behalf, that their act rose to the dignity of a revolution, and so swings clear from the sweep of the penalties of treason.* But a revolution is a rebellion come to its majority. All rebellions begin as treason, as everybody admits; but if one grows broad enough and strong enough successfully to resist, and then to overthrow, the government which it opposes, and goes on to thrust itself into its place, and tread down the old sovereignty under its feet, then it expands and solidifies into a revolution, and, as a revolution, justifies itself, and holds itself harmless from the punishment of treason, because it has annihilated all power of punishment over itself. "Unless crowned by success," said Judge Woodbury in regard to the Dorr revolt in Rhode Island, — "unless crowned by success, and thus subsequently ratified," * rebellions will be punished as treasonable. Mr. Everett defines a revolution as "one of those great movements by which a people, *for urgent causes*, introduces [i. e., succeeds in introducing] organic changes in the framework of its government, and materially renovates, or wholly reconstructs, the fabric of its political relations." †

But the rebels had no justifying cause for their revolt, and they have utterly failed in it; so that they have neither gained the dignity nor indemnity of a revolution. Their struggle will go down to the end of time as the great *Rebellion* of 1861–1865, never as the Revolution of that date; and this plea cannot save their necks.

(2.) *But, it is urged, there are so many of these rebels, that it would be dreadful to hang them all.* It would be a dreadful event. But this fact of number does not modify their desert of hanging. If twenty men break into your house to-night, and murder your sleeping children in cold blood, and are arrested by a superior force in the act, it would seem very dreadful to punish the whole twenty; but it would be impossi-

* Writings, ii. 76.

† Orations and Speeches, iii. 297.

ble to give a sound reason for not doing so. See how dangerous, as well as absurd, a precedent you establish for all the future, if you take the ground that one hundred, or one thousand, or ten thousand men, may, with impunity, commit a a crime for which one or two or three of them would be sent straight to the gallows! What a bounty that would be offering for gigantic atrocities and wholesale villanies! There can be neither law nor expediency, least of all genuine benevolence,— which must always sacredly consider and promote the greatest good of the greatest number, — in such a procedure.

There may be considerations, on the whole, making it inexpedient to *execute* the extreme penalty of the law on all these miserable men; but that their number ought to stand in the way of their *condemnation*, cannot for one moment be allowed.

(3.) *But, it is said, it is bloodthirsty and barbarous to take such ground, and condemn the whole body of these arch-traitors in the first degree.* That depends upon circumstances. It would have been denounced by multitudes as a barbarous and bloodthirsty act if Andrew Jackson had arrested and executed John C. Calhoun as a traitor in the spring of 1833, — as, to the end of his days, he regretted he had not done,* — or if President Buchanan had hung the South-Carolina commissioners † when they had the impudence to come to Washington, in December, 1860, to "negotiate" for South Carolina's share of the assets of the "late" Union; but if either — certainly if both — of these things had been done, in all human probability, it would have saved the lives of millions North and South. This Rebellion needs to be so settled up, that there shall never be another one between now and the day of judgment; and it would be both cheap and humane to

* "In his last sickness, he [General Jackson] declared, that, in reflecting upon his administration, he chiefly regretted that he had not had John C. Calhoun executed for treason. 'My country,' said the general, 'would have sustained me in the act, *and his fate would have been a warning to traitors in all time to come.*'" — Parton's *Life of Andrew Jackson*, iii. 447.

† "Messrs. R. W. Barnwell, James L. Orr, and Ex-Governor Adams, commissioners from the State of South Carolina, reached Washington on the 26th, under instructions to negotiate with the Federal Executive a partition of all the properties and interests of the sovereign and independent State of South Carolina, in the Union from which she had seceded." — Greeley's *American Conflict*, i. 411.

hang ten thousand rebels, if that were necessary, to prevent the land from being drenched again, at some future day, with fraternal blood. It must be established, as now, henceforth, and forever, the fundamental principle of this Republic, that the parricide who lifts his hand against its life and sovereignty dies without mercy and without hope; and then we shall have no more rebellions; as, in such a government of the people as ours, there never can be just cause for any, because there can be no grievance which cannot be redressed in a constitutional manner. Sufficient severity now, to bequeath that lesson to the future, is the most humane and Christian disposal of the question before us, which the possibilities of the case allow.

(4.) *But, it is said, it would be an unheard-of thing.* So was the Rebellion. The world never saw the like. It was, perhaps, an unheard-of thing to hang thirty-seven Dacotah Indians, on the 26th December, 1862, at Mankato, in Minnesota, for the horrible atrocities of the Sioux massacres, — atrocities well-nigh as savage and appalling as those of the rebels at Fort Pillow and Andersonville.* Doubtless it was an unheard-of thing; but, in the feeling that it was just and necessary, it was done. Extraordinary diseases require extraordinary remedies.

(5.) *But the great plea against the position which I take is, that less than the capital condemnation of all these chief traitors for their treason will answer the purpose just as well, and even better.* Well, I grant that what we ought to seek is not vengeance for the past, but that justice, with reference to the past, which shall be our security for the future. If it were possible for us to *know* that amnesty to these rebel chiefs would be just as safe for the nation in coming years as condemning them to be hung for their treason, that would alter the case materially. But we cannot pierce the future. We have but one lamp to throw forward light into its dusky recesses, and that is the lamp of experience and of consequent probability. And, with all proper respect for the party usually miscalled "Democratic," I beg to ask how long a time you

* See *History of the Sioux War and Massacres of* 1862 *and* 1863, by Isaac V. D. Heard, for the sickening details.

think would elapse, after the resumption by these amnestied rebels of their political place and function, before you would have them scheming in a grand "Democratic" coalition to perturb the State?

They are born politicians; they are bred politicians; they are practised and unscrupulous politicians; they know all the secrets of the wires, and can make the people think they see what they don't see, as cunningly and successfully as Maelzel used to hide his "Director" in his chess-playing "automaton," while he was turning it round before the audience, and opening one door after another, and pulling out the drawer, as much as to say, "You see it all; you see there can be no man inside; you see the cranks and the wheels, and the springs (wonderful!) which make it go."*

Can you trust such men back again in their old places in Congress? I hope, and unto God I pray, that that sky-lifted dome of the Capitol may sink to the utmost centre of the riven earth before the voice of one of those miscreants again wakes its echoes!

You would put them on their most solemn oath of allegiance, would you? Yes, and what good would that do with men with whom perjury has been for four years the habit of daily life? There *are* no words of solemn swearing before the most high God which they have not already trampled in the mire of their infamous treachery. Drive a nail into rotten wood, and expect it to bear the strain which a spike will bear in an oak; but insult not God nor man with talk of more oaths from these persons.

But you think less will answer, because slavery is practically dead, and these rebels will no longer have any temptation to new treason! That may be, and it may not be. *I* think they would have slavery again in five years, with Northern help. But the great question is not in regard to their future conduct so much as the relation of the method of the adjustment of their crime to the cause of public justice, here and in other lands, in all coming years. Let them off easy, and you endanger the inference by and by, these popular gov-

* See Fiske's *Book of the First American Chess Congress*, pp. 423–484; and *Works of the late E. A. Poe*, iv. 346–370.

ernments never punish treason: it is safe to rebel; for, if we succeed, we go in, and all else go out; if we fail, we shall have amnesty, and our risk is thus disproportioned to the possible prize.

I have said that treason has not been practical with us in this land. We never had an execution for it against the nation; though poor demented old John Brown was hung for what was alleged to be treason against the State of Virginia. But we had a trial for treason once, and a condemnation. It was in the presidency of old John Adams, in 1799, in a time of fierce excitement between the Federalists and what were then called the Republicans.* Congress had levied a direct tax, among other things, on houses, arranged in certain classes; and among other means for making that classification was a measurement of the windows. In a portion of Pennsylvania, a violent and insurrectionary hostility, principally among Germans, arose against this, until the officers were compelled to desist from measuring people's windows preparatory to its collection. Warrants were issued from the District Court against the insurgents, and the marshal arrested some thirty persons; but in the village of Bethlehem he was attacked by an armed party under the leadership of one John Fries, and his prisoners rescued. The President immediately issued a proclamation, the military were called out, and Fries and his accomplices were captured. Fries was tried for treason, and condemned, on the ground that he had constructively levied war against the nation. A flaw was found, however, in the proceedings, and a new jury summoned, which, after full hearing, again condemned Fries, and with him two others. The President consulted his Cabinet. "Painful," was the reply of Col. Pickering, his Secretary of State, "as is the idea of taking the life of a man, an opportunity is now presented, in executing the just sentence of the law, to crush that spirit, which, if not overturned and destroyed, may proceed in its career, and overturn the Government." † John Adams, after long consideration of the matter, issued to each of the condemned a full pardon. He has given, in a letter written sixteen years

* *Hildreth's History of the United States*, 2d Series, ii. 312.

† *Life and Works of John Adams*, i. 573.

after, his reasons for the act. "What good, what example, would have been exhibited to the nation by the execution of three or four obscure, miserable Germans, as ignorant of our language as they were of our laws and the nature and definition of treason? — pitiful puppets danced upon the wires of jugglers behind the scene. . . . Had the mountebanks been in the place of the puppets, mercy would have had a harder struggle to obtain absolution for them. . . . My judgment was clear that their crime did not amount to treason. They had been guilty of a high-handed riot and rescue, attended with circumstances hot, rash, violent, and dangerous: but all these did not amount to treason; and I thought the officers of the law had been injudicious in indicting them for any crime higher than riot, aggravated by rescue." *

Here, it is too true, *was* the grand mistake. John Fries was not really guilty of treason; but he had been indicted and twice tried for it, and twice convicted of it: so that John Adams, in pardoning him as an act of personal justice, was in a manner compelled to establish something like an apparent precedent for the non-punishment of treason against the Republic. It would have been hard for poor Fries, but it would probably have been a blessing to the nation, if he had been then hung. Doubtless his execution would have frowned down in advance subsequent South-Carolina nullification, and the strangling of that at its birth would have stifled this Rebellion in embryo.

Judging the probabilities of the future, then, by the facts of the past, it does not seem as if any thing short of the capital condemnation of the unquestionably leading traitors who survive the Rebellion can be safe for the nation. With what face can we ever punish *any* crime again, if we do not now punish theirs? How can we move on, as a nation, with the decree, as a part of our organic law, that treason shall be punished with death, if we do not now execute that law? If we do not execute, we must repeal it. And are we prepared officially, deliberately, to take the ground before God and man, that the worst villany — that assassination of gov-

* *Life and Works of John Adams*, x. 153.

ernment, which includes all other misdemeanors—shall no longer be considered and treated as a crime in this nation?

I am not bloodthirsty; I am not angry; if I know my own heart, I bear no *malice* even toward those who are starving our poor prisoners to idiocy and death, to the best of their lessening ability, even while I speak, to-day: but, as a moralist and a Christian and a patriot, I protest that there is but just this one answer, which in law or equity *can* be honestly and rightly given to the question, What ought to be done with the educated, intelligent, influential rebels, whether combatants or non-combatants, in the war that is drawing to its close? It is that which our new President prophetically announced on the floor of the Senate, when, four years ago, he stood in his heroic loyalty solitary and alone among his Southern brethren, and which he has with such ringing emphasis iterated and reiterated during the past eventful week: *They should be arrested as traitors, they should be indicted as traitors, they should be tried as traitors, and they should be condemned as traitors!* Here I part company with Andrew Johnson in word, in order that, as I believe, I may abide with him in spirit. I say they should be *condemned* to be hung as traitors; I do not say they should all *be hung* as traitors. I think the ends of public justice may be met with less than that.

I would try, and condemn to be hung for treason, every rebel who was registered as colonel, or as of higher rank, in the Confederate army, or was of corresponding prominence in the civil service. I would *hang* a selection of a very few of the guiltiest, as an offering to the violated law and our murdered brothers, and a warning to the world and all the future, and then I would let the rest go,—*under sentence, with the rope round their necks.* I would let them go as Cain went; I would let them go, with the clearest understanding that if they ever touch with their accursed feet this soil of ours again,—without some act of individual amnesty, earned for some far future day by years of penitence and reformation,—that postponed halter shall swing them still!

This was what moral right and political justice calmly said ten days ago. Can *less* be said since that dread fall, when

> "I and you and all of us fell down,
> Whilst bloody treason flourished over us"?

Our martyred nobleman is in his coffin, passing in triumphal, though funereal, march from his place of martyrdom to his sepulture; with such a mourning, in depth of sorrow even more than in breadth of reach over the minds of men, as the world never saw. Well rounded and complete in every gentle virtue and radiant quality; ready for heaven, and having done a work on earth so large and glorious, in a time so short, that he himself might have anticipated that the end drew near, — we cannot mourn for him.

> "Though fallen thyself, never to rise again,
> Live and take comfort. Thou hast left behind
> Powers that will work for thee, — air, earth, and skies.
> There's not a breathing of the common wind
> That will forget thee: thou hast great allies;
> Thy friends are exultations, agonies,
> And love, and man's unconquerable mind." *

But let no loyal mind ever, for one moment, forget that treason murdered him. And now shall treason, which before merited the most appalling punishment known to humanity, merit it less, and be amnestied and forgiven? It is impossible. The slave-power has ejected its deadliest venom with its expiring throes. It has admonished us that there is no safety for any thing good and great, so long as it has one breath of being left. The first gun fired at Sumter thundered through the land as an initial alarum. This pistol-shot — jarring the continent more than all columbiads — warns us to rally once again, or all will be lost in the very hour of triumph; warns us that there is, as Bunyan declared, "a way to hell, even from the gates of heaven;" warns us to gain new life for sternest justice out of the stimulus of this new death.

> "No, not in vain he died, not all in vain,
> Our good, great President! This people's hands
> Are linked together in one mighty chain,
> Drawn tighter still in triple-woven bands
> To crush the fiends in human masks, whose might
> We suffer, oh too long! No league, nor truce,
> Save *men* with *men!* The devils we must fight
> With fire. God wills it in this deed. This use

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* Wordsworth (Sonnet to Toussaint L'Ouverture), *Works*, p. 212.

We draw from the most impious murder done
Since Calvary. Rise then, O countrymen!
Scatter these marsh-light hopes of Union won
Through pardoning clemency. Strike, strike again!
Draw closer round the foe a girdling flame:
We are stabbed whene'er we spare; strike in God's name!" *

Thus, then, I answer our two questions: —

1. This is what we ought to do in the case of the freedmen: Give them homes on the confiscated lands of the rebels; aid them in their first occupancy, as they may need; educate them to be intelligent, virtuous, and useful copartners with us in the nation; make them voting citizens in full (every disability of color removed), so soon as they shall have trained themselves for the intelligent discharge of that responsibility; and rid ourselves, at once and forever, of that unchristian and inhuman notion, that essential humanity has any thing to do with the color of the skin.

2. This is what we ought to do in the case of the rebels: Welcome, honor, reward and remunerate, out of the effects of traitors, for their sacrifices, the few who have been faithful among the faithless through all; forgive, and, under suitable restrictions with regard to their conduct toward the freedmen, and with suitable probation as to their resumption of the elective franchise, restore the great mass who were deceived or dragooned into rebellion, or who, rushing hastily into it, have bitterly repented their error; and arrest, try, convict and sentence to be hanged for treason, all prominent surviving rebels, who plotted against us in the old times of Union, stole their education, their arms, much of their treasure, and our secrets, and then perjured themselves and turned against us, and robbed us of our forts and our navy-yards, and have since murdered, and worse than murdered, thousands and tens of thousands of our noblest sons, and at last cowardly assassinated our venerated President, their own kindest friend; *hang* a few — a half-dozen — of those highest in station and lowest in infamy, in vindication of outraged justice, and in perpetual demonstration to the future that the powers that be in this land are ordained of God, and that the magistrate

* C. P. Cranch, in "New York Tribune," 19th April, 1865.

bears not the sword in vain; and then dismiss the remainder, fugitives and vagabonds through the world, with halters round their necks, liable to be tightened at the first sheriff's hand, if they ever dare to pollute our free future with their foul presence!

This is what I have to say. Am I wrong? Then point out my error; lead me as a child, by the hand, into the more excellent way: for of all things I most desire, for myself and for you, right action, — God-fearing, God-pleasing action, — now.

Am I right? Then act on these principles! Advocate them! Stir up your neighbors to adopt them! Tone up the public mind! Oxygenate the moral atmosphere! Make it impossible to have it otherwise!

"The work of righteousness shall be peace; and the effect of righteousness, quietness and assurance forever!"

And may God save the United States of America!